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HOUSE BILL 259

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO PUBLIC BUILDINGS; AUTHORIZING THE ACQUISITION OF  
UNIVERSITY SPORTS FACILITIES; ENACTING THE UNIVERSITY SPORTS  
FACILITIES ACQUISITION BONDING ACT; CREATING A SPECIAL FUND  
CONSISTING OF GROSS RECEIPTS TAX DISTRIBUTIONS; AUTHORIZING THE  
NEW MEXICO FINANCE AUTHORITY TO ISSUE UNIVERSITY SPORTS  
FACILITIES TAX REVENUE BONDS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 10 of this act may be cited as the "University Sports  
Facilities Acquisition Bonding Act".

Section 2. [NEW MATERIAL] DEFINITION. -- As used in the  
University Sports Facilities Acquisition Bonding Act,  
"acquiring" or "acquisition" includes acquiring or acquisition  
by purchase, construction, renovation or improvement.

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1           Section 3.   ~~[NEW MATERIAL]~~ NEW MEXICO FINANCE AUTHORITY--  
2   ISSUANCE OF UNIVERSITY SPORTS FACILITIES TAX REVENUE BONDS--  
3   APPROPRIATION OF PROCEEDS. --

4           A.   The New Mexico finance authority is authorized  
5   to issue and sell revenue bonds, known as "university sports  
6   facilities tax revenue bonds", payable solely from the  
7   university sports facilities bonding fund in compliance with  
8   the University Sports Facilities Acquisition Bonding Act, for  
9   the purpose of acquiring university sports facilities when the  
10   acquisition is authorized by legislative act and the chief  
11   financial officer of the university to receive the proceeds of  
12   the bonds certifies the need for the issuance of the bonds.

13           B.   The net proceeds from the university sports  
14   facilities tax revenue bonds are appropriated to the university  
15   authorized by legislative act to receive the proceeds of the  
16   bonds for the purpose of acquiring university sports  
17   facilities, the acquisition of which shall be consistent with  
18   the purpose of the University Sports Facilities Acquisition  
19   Bonding Act and the authorizing legislation.

20           Section 4.   ~~[NEW MATERIAL]~~ UNIVERSITY SPORTS FACILITIES  
21   BONDING FUND CREATED--MONEY IN THE FUND PLEDGED. --

22           A.   The "university sports facilities bonding fund"  
23   is created as a special fund within the New Mexico finance  
24   authority.   The fund shall be administered by the New Mexico  
25   finance authority as a special account.   The fund shall consist

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1 of money appropriated and transferred to the fund and gross  
2 receipts tax revenues distributed to the fund by law. Earnings  
3 of the fund shall be credited to the fund. Balances in the  
4 fund at the end of any fiscal year shall remain in the fund,  
5 except as provided in this section.

6 B. Money in the university sports facilities  
7 bonding fund is pledged for the payment of principal and  
8 interest on all university sports facilities tax revenue bonds  
9 issued pursuant to the University Sports Facilities Acquisition  
10 Bonding Act. Money in the fund is appropriated to the New  
11 Mexico finance authority for the purpose of paying debt  
12 service, including redemption premiums, on the university  
13 sports facilities tax revenue bonds and the expenses incurred  
14 in the issuance, payment and administration of the bonds.

15 C. On the last day of January and July of each  
16 year, the New Mexico finance authority shall estimate the  
17 amount needed to make debt service and other payments during  
18 the next twelve months from the university sports facilities  
19 bonding fund on the university sports facilities tax revenue  
20 bonds issued pursuant to the University Sports Facilities  
21 Acquisition Bonding Act plus the amount that may be needed for  
22 any required reserves. The New Mexico finance authority shall  
23 transfer to the general fund any balance in the university  
24 sports facilities bonding fund above the estimated amounts.

25 D. Any balance remaining in the university sports

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1 facilities bonding fund shall be transferred to the general  
2 fund upon certification by the New Mexico finance authority  
3 that:

4 (1) the New Mexico finance authority has  
5 declared that the university sports facilities tax revenue  
6 bonds issued pursuant to the University Sports Facilities  
7 Acquisition Bonding Act have been retired, that no additional  
8 obligations of the university sports facilities bonding fund  
9 exist and that no additional expenditures from the fund are  
10 necessary; or

11 (2) a court of jurisdiction has ruled that the  
12 university sports facilities tax revenue bonds have been  
13 retired, that no additional obligations of the university  
14 sports facilities bonding fund exist and that no additional  
15 expenditures from the fund are necessary.

16 E. The university sports facilities tax revenue  
17 bonds issued pursuant to the University Sports Facilities  
18 Acquisition Bonding Act shall be payable solely from the  
19 university sports facilities bonding fund or, with the approval  
20 of the bondholders, such other special funds as may be provided  
21 by law and do not create an obligation or indebtedness of the  
22 state within the meaning of any constitutional provision. No  
23 breach of any contractual obligation incurred pursuant to that  
24 act shall impose a pecuniary liability or a charge upon the  
25 general credit or taxing power of the state, and the bonds are

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1 not general obligations for which the state's full faith and  
2 credit is pledged.

3 F. The state does hereby pledge that the university  
4 sports facilities bonding fund shall be used only for the  
5 purposes specified in this section and pledged first to pay the  
6 debt service on the university sports facilities tax revenue  
7 bonds issued pursuant to the University Sports Facilities  
8 Acquisition Bonding Act. The state further pledges that any  
9 law authorizing the distribution of taxes or other revenues to  
10 the university sports facilities bonding fund or authorizing  
11 expenditures from the fund shall not be amended or repealed or  
12 otherwise modified so as to impair the bonds to which the  
13 university sports facilities bonding fund is dedicated as  
14 provided in this section.

15 Section 5. [NEW MATERIAL] AUTHORITY TO REFUND BONDS.--The  
16 New Mexico finance authority may issue and sell at public or  
17 private sale university sports facilities tax revenue bonds to  
18 refund outstanding university sports facilities tax revenue  
19 bonds by exchange, immediate or prospective redemption,  
20 cancellation or escrow, including the escrow of debt service  
21 funds accumulated for payment of outstanding bonds, or any  
22 combination thereof when, in its opinion, such action will be  
23 beneficial to the state.

24 Section 6. [NEW MATERIAL] UNIVERSITY SPORTS FACILITIES  
25 TAX REVENUE BONDS-- FORM - EXECUTION. --

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1           A. The New Mexico finance authority, except as  
2 otherwise specifically provided in the University Sports  
3 Facilities Acquisition Bonding Act, shall determine at its  
4 discretion the terms, covenants and conditions of university  
5 sports facilities tax revenue bonds, including, but not limited  
6 to, date of issue, denominations, maturities, rate or rates of  
7 interest, call features, call premiums, registration,  
8 refundability and other covenants covering the general and  
9 technical aspects of the issuance of the bonds.

10           B. The university sports facilities tax revenue  
11 bonds shall be in such form as the New Mexico finance authority  
12 may determine, and successive issues shall be identified by  
13 alphabetical, numerical or other proper series designation.

14           C. University sports facilities tax revenue bonds  
15 shall be signed and attested by the secretary of the New Mexico  
16 finance authority and shall be executed with the facsimile  
17 signature of the chairman of the New Mexico finance authority  
18 and the facsimile seal of the New Mexico finance authority,  
19 except for bonds issued in book entry or similar form without  
20 the delivery of physical securities. Any interest coupons  
21 attached to the bonds shall bear the facsimile signature of the  
22 secretary of the New Mexico finance authority, which officer,  
23 by the execution of the bonds, shall adopt as his own signature  
24 the facsimile thereof appearing on the coupons. Except for  
25 bonds issued in book entry or similar form without the delivery

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1 of physical securities, the Uniform Facsimile Signature of  
2 Public Officials Act shall apply, and the New Mexico finance  
3 authority shall determine the manual signature to be affixed on  
4 the bonds.

5 Section 7. [NEW MATERIAL] PROCEDURE FOR SALE OF BONDS. --

6 A. University sports facilities tax revenue bonds  
7 shall be sold by the New Mexico finance authority at such times  
8 and in such manner as the authority may elect, consistent with  
9 the need of the university authorized by legislative act to  
10 receive the proceeds of the bonds, either at private sale for a  
11 negotiated price or to the highest bidder at public sale for  
12 cash at not less than par value and accrued interest.

13 B. In connection with any public sale of university  
14 sports facilities tax revenue bonds, the New Mexico finance  
15 authority shall publish a notice of the time and place of sale  
16 in a newspaper of general circulation in the state and also in  
17 a recognized financial journal outside the state. Such  
18 publication shall be made once each week for two consecutive  
19 weeks prior to the date fixed for such sale, the last  
20 publication to be two business days prior to the date of sale.  
21 Such notice shall specify the amount, denomination, maturity  
22 and description of the bonds to be offered for sale and the  
23 place, day and hour at which sealed bids therefor shall be  
24 received. All bids, except that of the state, shall be  
25 accompanied by a deposit of two percent of the principal amount

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1 of the bonds. Deposits of unsuccessful bidders shall be  
2 returned upon rejection of the bid. At the time and place  
3 specified in such notice, the New Mexico finance authority  
4 shall open the bids in public and shall award the bonds, or any  
5 part thereof, to the bidder or bidders offering the best price.  
6 The New Mexico finance authority may reject any or all bids and  
7 readvertise.

8 C. The New Mexico finance authority may sell a  
9 university sports facilities tax revenue bond issue, or any  
10 part thereof, to the state or to one or more investment bankers  
11 or institutional investors at private sale.

12 Section 8. [NEW MATERIAL] UNIVERSITY SPORTS FACILITIES  
13 ACQUISITION BONDING ACT IS FULL AUTHORITY FOR ISSUANCE OF  
14 BONDS-- BONDS ARE LEGAL INVESTMENTS. --

15 A. The University Sports Facilities Acquisition  
16 Bonding Act shall, without reference to any other act of the  
17 legislature, be full authority for the issuance and sale of  
18 university sports facilities tax revenue bonds, which bonds  
19 shall have all the qualities of investment securities under the  
20 Uniform Commercial Code and shall not be invalid for any  
21 irregularity or defect or be contestable in the hands of bona  
22 fide purchasers or holders thereof for value.

23 B. University sports facilities tax revenue bonds  
24 are legal investments for any person or board charged with the  
25 investment of any public funds and are acceptable as security

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1 for any deposit of public money.

2 Section 9. [NEW MATERIAL] SUIT MAY BE BROUGHT TO COMPEL  
3 PERFORMANCE OF OFFICERS. -- Any holder of university sports  
4 facilities tax revenue bonds or any person or officer being a  
5 party in interest may sue to enforce and compel the performance  
6 of the provisions of the University Sports Facilities  
7 Acquisition Bonding Act.

8 Section 10. [NEW MATERIAL] BONDS TAX EXEMPT. -- All  
9 university sports facilities tax revenue bonds shall be exempt  
10 from taxation by the state or any of its political  
11 subdivisions.

12 Section 11. A new section of the Tax Administration Act  
13 is enacted to read:

14 "[NEW MATERIAL] DISTRIBUTION-- UNIVERSITY SPORTS FACILITIES  
15 BONDING FUND-- GROSS RECEIPTS TAX. -- A distribution pursuant to  
16 Section 7-1-6.1 NMSA 1978 shall be made to the university  
17 sports facilities bonding fund in the amount of eighty thousand  
18 dollars (\$80,000) from the net receipts attributable to the  
19 gross receipts tax imposed by the Gross Receipts and  
20 Compensating Tax Act. The distribution shall be made:

21 A. after the required distribution pursuant to  
22 Section 7-1-6.4 NMSA 1978;

23 B. contemporaneously with other distributions of  
24 net receipts attributable to the gross receipts tax for payment  
25 of debt service on outstanding bonds or to a fund dedicated for

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1 that purpose; and

2 C. prior to any other distribution of net receipts  
3 attributable to the gross receipts tax. "

4 Section 12. TEMPORARY PROVISION--UNIVERSITY SPORTS  
5 FACILITIES TAX REVENUE BONDS--AUTHORIZATION--CONTINGENCIES. --

6 A. The New Mexico finance authority may issue and  
7 sell university sports facilities tax revenue bonds in  
8 compliance with the University Sports Facilities Acquisition  
9 Bonding Act in a total amount not to exceed eight million  
10 dollars (\$8,000,000) when the chief financial officer of New  
11 Mexico state university certifies to the authority that  
12 proceeds from the university sports facilities tax revenue  
13 bonds are needed to acquire a university stadium for New Mexico  
14 state university. The authority shall schedule the issuance  
15 and sale of the bonds in the most expeditious and economical  
16 manner possible upon a finding by the authority that the  
17 acquisition can proceed within a reasonable time. The  
18 authority shall take the appropriate steps necessary to comply  
19 with the Internal Revenue Code of 1986, as amended. Proceeds  
20 from the sale of the bonds are appropriated to the board of  
21 regents of New Mexico state university for expenditure in  
22 fiscal year 2004 and subsequent fiscal years.

23 B. The authorization made in Subsection A of this  
24 section is contingent upon the enactment into law of the  
25 University Sports Facilities Acquisition Bonding Act.

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C. The authorization made in Subsection A of this section is contingent upon New Mexico state university obtaining a loan of four million dollars (\$4,000,000) from the New Mexico finance authority or providing four million dollars (\$4,000,000) from other university bonds or other resources to be used for acquisition of a university sports facility.

Section 13. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.

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